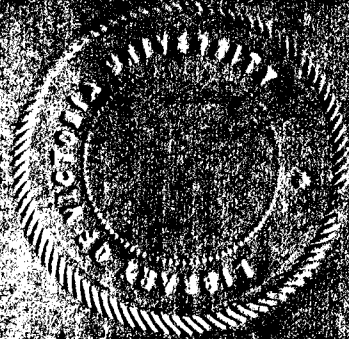


THE UNIVERSITY OF CHICAGO PRESS

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

THE

First time, Tuesday, 2nd February, 1927.



CA1
YB
-B37
JACKMAN

Second Session, Eighteenth Parliament, 1 George VI, 1937.

THE SENATE OF CANADA

BILL B.

An Act to establish a Board of Transport Commissioners
for Canada, with authority in respect of transport
by railways, ships, aircraft and motor vehicles.

Read a first time, Tuesday, 2nd February, 1937.



Hon. Senator DANDURAND.

THE SENATE OF CANADA

BILL B.

An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships, aircraft and motor vehicles.

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

Short title. 1. This Act may be cited as *The Transport Act, 1937*.

INTERPRETATION.

- Definitions. 2. In this Act, unless the context otherwise requires:— 5
- "Agreed charge." (a) "agreed charge" means a charge agreed upon between a carrier and a trader as in this Act provided and includes the conditions attaching thereto;
- "Aircraft." (b) "aircraft" means airships designed to be lighter than air and flying machines designed to be heavier than air and, in either case, having means of traction or propulsion; 10
- "Board." (c) "Board" shall have the meaning set forth in section three of this Act;
- "Broker." (d) "broker" means any person other than a licensee or the *bona fide* employee of a licensee who, as principal or agent, sells or offers for sale any transport or negotiates for, or holds himself out by solicitation, advertisement or otherwise as one who sells, provides, furnishes, contracts or arranges for such transport; 15
- "Carrier." (e) "carrier" means any person engaged in the transport of goods or passengers for hire or reward to whom this Act applies, and shall include any railway or express company which is subject to the *Railway Act*; 20
- "Dominion highway." (f) "Dominion highway" means any highway the ownership of which is in His Majesty in the right of Canada; 25

"Harbour
toll."

(g) "harbour toll" means and includes every rate, toll and charge established or proposed to be established by any Act of Parliament or by, or with the approval of, the Governor in Council in respect of ships or aircraft entering, using or leaving any harbour in Canada, or the passengers thereof, or goods loaded, unloaded, shipped, transhipped, moved in transit or stored in any harbour in Canada, or on or in any wharf, dock, pier, warehouse or other facility within the limits of any such harbour or situate on lands appurtenant thereto; 5 10

"Highway."

(h) "highway" includes any highway, road, street or way;

"Interpro-
vincial or
foreign
trade."

(i) "interprovincial or foreign trade" means the transport of goods or passengers between a place in one province and a place in another province, or between a place in Canada and a place outside of Canada, and shall include any transport of goods wholly within a province which forms part of a through movement of goods, whether or not on one bill of lading, with another carrier when the points of origin or destination are in different provinces or in Canada and a foreign country; 15 20

"Licensee."

(j) "licensee" means a person licensed under this Act to engage in transport by water, air or highway;

"Minister."

(k) "Minister" means the Minister of Transport; 25

"Motor
vehicle."

(l) "motor vehicle" means any vehicle or trailer propelled or drawn by mechanical power and used upon a highway for the transport of goods or passengers;

"Private
commercial
vehicle."

(m) "private commercial vehicle" means any motor vehicle operated on a highway for the transport of goods by or on behalf of any person who is the owner of both the goods and the vehicle; 30

"Public
commercial
vehicle."

(n) "public commercial vehicle" means any motor vehicle operated on a highway by or on behalf of any person who receives compensation for the transport of goods or passengers by means of such vehicle; 35

"Ship"
in general.

(o) "ship" includes every description of vessel not propelled by oars;

"Ship,"
Part V.

(p) "ship" when used in Part V of this Act includes any ship, boat, barge, dredge, floating elevator, scow or any other floating craft and any raft, crib, dram or bag boom of logs, timber or lumber of any kind, and logs, timber or lumber in boom or being towed; 40

"Toll."

(q) "toll" or "charge" means and includes any toll, rate, charge or allowance charged or made in connection with the transport of passengers, or the shipment, transport, care, handling or delivery of goods, or for any services incidental to the business of a carrier; and includes also any toll, rate, charge or allowance as charged or made in connection with any instrumentality or facility of shipment or 45 50

transport irrespective of ownership, or of any contract express or implied with respect to the use thereof, and includes also any toll, rate, charge or allowance so charged or made for furnishing passengers with sleeping accommodation, or for collecting, receiving, loading, 5 unloading, stopping over, elevating, ventilating, refrigerating, icing, heating, switching, ferrying, carting, storing, caring for, handling or delivering goods transported or in transit or to be transported; and includes also any toll, rate, charge or allowance so charged 10 or made for the warehousing of goods, wharfage or demurrage, or the like, and includes hangar and landing charges payable in respect of aircraft; and includes charges made in connection with any one or more of the above mentioned subjects, separately or con- 15 jointly;

- "Trader." (r) "trader" means a person sending or receiving or desiring to send or receive goods by means of any carrier to whom this Act applies;
- "Transport." (s) "transport" means the transport of goods or passen- 20 gers, whether by air, by highway, by water or by rail, for hire or reward, to which the provisions of this Act apply and "transported" and "transporting" shall have corresponding meanings;
- "Transport by air." (t) "transport by air" means the transport of goods or 25 passengers for hire or reward by means of aircraft;
- "Transport by highway." (u) "transport by highway" means the transport in interprovincial or foreign trade or upon a Dominion highway of goods or passengers for hire or reward by means of public commercial vehicles; 30
- "Transport by rail." (v) "transport by rail" means the transport of goods or passengers by a railway to which the *Railway Act* applies;
- "Transport by water." (w) "transport by water" means the transport of goods or passengers for hire or reward by means of ships, 35 required to be licensed under this Act.
- (2) Unless it is otherwise provided or the context otherwise requires, expressions contained in this Act shall have the same meaning as in the *Railway Act* and this Act shall be read and construed as one with that Act, but shall have 40 full force and effect notwithstanding anything contained in that Act.

This Act to be read with R.S. 1927, c. 170.

PART I.

BOARD OF TRANSPORT COMMISSIONERS

"Board," in R.S. 1927, c. 170; R.S. 1927, c. 172; 1932-33, c. 33; 1936, c. 25; R.S. 1927, c. 79; 1906, c. 170.

3. The Board of Railway Commissioners for Canada shall hereafter be and be known as the Board of Transport Commissioners for Canada, and the expression "Board" 45 wherever it occurs in this Act or in the *Railway Act*, the

Canadian National Railways Act, The Canadian National-Canadian Pacific Act, 1933, The Canadian National-Canadian Pacific Act, 1936, the Maritime Freight Rates Act or the Toronto Terminals Railway Company Act shall mean the Board of Transport Commissioners for Canada and the expression "Board of Transport Commissioners for Canada" shall be substituted for the expression "Board of Railway Commissioners for Canada" wherever that expression occurs in the *Railway Act* or in any other Act. 5

PART II.

TRANSPORT BY WATER.

Application
of *Railway
Act*,
R.S. 1927,
c. 170.

4. The provisions of the *Railway Act* relating to tolls and tariffs and joint tariffs and the making of returns and the filing of statistics and the powers of the Board with respect to tolls and tariffs and for the enforcement of the orders of the Board and for the review of, and appeals from, such orders shall, subject to the provisions of this Part, extend and apply to transport by water and to every person engaged in such transport and to every trader and the aforesaid provisions shall, *mutatis mutandis*, be read as if enacted in this Part, and any trader or person engaged in transport by water contravening or failing to comply with any such provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and not less than one hundred dollars. 10 15 20

Minister
may license
ships.

5. The Minister may license ships to transport passengers and goods from a port or place in Canada to another port or place in Canada. 25

Who may
obtain
licence.

(2) The licence shall be issued in the name of the owner, lessee or other person entitled to engage in transport by water by means of such ship.

One or more
ships.

(3) The licence may apply to one or more ships. 30

Indication
of ports
and services.

(4) The Minister may in the licence state the ports between which the ship or ships named therein may carry goods or passengers and the schedule of services which shall be maintained.

Certificate
by Board.

(5) The Minister shall not issue a licence without first being satisfied by certificate issued by the Board that the 35

proposed service is or will be required by the present and future public convenience and necessity.

Licence.
prohibited.

(6) No licence shall be issued in the case of a ship imported into Canada which was constructed more than ten years before such importation: Provided, however, that this subsection shall not apply in the case of a ship engaged in the coasting trade of Canada at the date this Act is assented to.

5

Transport
prohibited.

6. No goods or passengers shall be transported by water, from one port or place in Canada to another port or place in Canada, either directly or by way of a foreign port or for any part of the transport, by means of any ship other than a ship licensed under this Part.

10

Fines for
infractions.

(2) If any goods or passengers are transported contrary to the provisions of this Part or otherwise than in accordance with the terms of the licence of the ship, the owner or other person operating the ship shall be liable upon summary conviction to a fine in respect of goods so transported of fifty cents per ton of the registered tonnage of the ship or five hundred dollars, whichever is the greater, and a fine in respect of passengers so transported of two hundred dollars for each passenger or five hundred dollars, whichever is the greater.

15

20

Detention
of ships.

(3) The Collector of Customs at any port or place in Canada may, if he believes that an offence has been committed against this Part, detain the ship pending the disposition of any complaint or charge and the payment of any fine imposed in respect of such offence.

25

R.S. 1927,
c. 170.
Suspension or
cancellation
of licence.

(4) If any licensee is convicted of an offence under this Act or under the *Railway Act*, or if the Board is satisfied that a ship is operated otherwise than in accordance with the terms of a licence applicable thereto, the Board may suspend or cancel the licence of such licensee in respect of one or all of the ships licensed.

30

Reasonable
or just
tariff.

7. The Board in determining whether a tariff of tolls is reasonable or just shall take into consideration the capacity and speed of the licensed ship, the loading and unloading facilities at all ports, and whether or not a regular schedule of services is maintained by the licensed ship.

35

When this
Part comes
into force.

8. This Part shall not come into force on, or in respect of, any sea or inland water of Canada until proclaimed by the Governor in Council to be in force on, or in respect of, such sea or inland water.

40

Exemption.

(2) The Governor in Council may by regulation exempt any ship or class of ships from the operation of this Part.

45

Extension
of application
of this part.

(3) The Governor in Council may on the recommendation of the Board by proclamation extend the application of this Part to transport by means of ships registered in Canada over any sea or inland water on or in respect of which this Part is in force between ports or places in Canada and ports or places outside of Canada. 5

Repeal of
ss. 3, 4 and
5 of R.S.
1927, c. 208.

(4) Upon the coming into force of this Part on or in respect of any inland water of Canada to which the *Inland Water Freight Rates Act* applies, sections three, four and five of that Act are repealed. 10

PART III.

TRANSPORT BY AIR.

Application
of *Railway
Act*, R.S.
1927, c. 170.

9. The provisions of the *Railway Act* relating to tolls and tariffs and joint tariffs and the making of returns and the filing of statistics and the powers of the Board with respect to tolls and tariffs, and for the enforcement of the orders of the Board, and for the review of, and appeals from such orders, shall, subject to the provisions of this Part, extend and apply to transport by air and to every person engaged in such transport and to every trader, and the aforesaid provisions shall, *mutatis mutandis*, be read as if enacted in this Part, and any trader or person engaged in transport by air contravening or failing to comply with any such provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and not less than one hundred dollars. 15 20

Minister
may license
aircraft.

10. The Minister may license aircraft to transport passengers and goods between points or places in Canada or between points or places in Canada and points or places outside of Canada. 25

Who may
obtain
licence.

(2) The licence shall be issued in the name of the owner, lessee or other person entitled to engage in transport by air by means of such aircraft. 30

One or more
aircraft.
Indication
of routes and
services.

(3) The licence may apply to one or more aircraft.

(4) The Minister may in the licence prescribe the route or routes which the aircraft named therein may follow and the schedule of services which shall be maintained. 35

Certificate
of Board.

(5) The Minister shall not issue a licence without being first satisfied by certificate issued by the Board that the proposed service is or will be required by the present and future public convenience and necessity.

Transport
prohibited.

11. No goods or passengers shall be transported by air in Canada by means of any aircraft other than an aircraft licensed under this Part.

Fine and
forfeiture for
infractions.

(2) If any goods or passengers are transported contrary to the provisions of this Part or otherwise than in accordance with the terms of the licence of the aircraft, the owner or other person operating the aircraft shall be liable upon summary conviction to a fine not exceeding five hundred dollars and not less than two hundred dollars, and every aircraft by means of which goods or passengers are transported contrary to the provisions of this Part shall be subject to forfeiture as hereinafter provided. 5 10

Detention
of aircraft.

(3) The Collector of Customs at any port or airport in Canada may, if he believes that an offence has been committed against this Part, detain the aircraft pending the disposition of any complaint or charge and the payment of any fine imposed in respect of such offence. 15

R.S. 1927,
c. 170.
Suspension or
cancellation
of licence.

(4) If any licensee is convicted of an offence under this Act or under the *Railway Act*, or if the Board is satisfied that an aircraft is operated otherwise than in accordance with the terms of a licence applicable thereto, the Board may suspend or cancel the licence of such licensee in respect of one or all of the aircraft licensed. 20

When this
Part comes
into force.

12. This Part shall not come into force in, or in respect of, any part of Canada until proclaimed by the Governor in Council to be in force in, or in respect of, such specified part of Canada. 25

Exemption.

(2) The Governor in Council may by regulation exempt any aircraft or class of aircraft from the operation of this Part. 30

PART IV.

TRANSPORT BY HIGHWAY.

Application
of *Railway
Act*,
R.S. 1927,
c. 170.

13. The provisions of the *Railway Act* relating to tolls and tariffs and the making of returns and the filing of statistics and the powers of the Board with respect to tolls and tariffs and for the enforcement of the orders of the Board and for the review of, and appeal from such orders shall, subject to the provisions of this Part, extend and apply to transport by highway and to every person engaged in such transport and to every trader and the aforesaid provisions shall, *mutatis mutandis*, be read as if enacted in this Part and any trader or person engaged in transport by highway contravening or failing to comply with any such provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and not less than one hundred dollars. 35 40

Minister
may license
commercial
vehicles.

Who may
obtain
licence.

One or
more
vehicles.

Indication
of routes
and services.

Satisfaction
of Minister.

Certificate
of Board
and sus-
pension or
cancellation
of licence.

Board may
make orders
and
regulations.

14. The Minister may license public or private commercial vehicles to transport goods or passengers in inter-provincial or foreign trade, or upon a Dominion highway.

(2) The licence shall be issued in the name of the owner, lessee or other person entitled to engage in transport by high- 5 way by means of such public or private commercial vehicle.

(3) The licence may apply to one or more vehicles.

(4) The Minister may in the licence prescribe the route or routes which the public commercial vehicle or vehicles named therein may follow and the schedule of services 10 which shall be maintained.

(5) The Minister shall not issue a licence in the case of a public commercial vehicle without first being satisfied by certificate issued by the Board that the proposed service is or will be required by the present and future public 15 convenience and necessity.

(6) The Board shall not issue a certificate of public convenience and necessity in respect of any public or private commercial vehicle until it has been first satisfied that the said vehicle conforms to such standards of design and oper- 20 ating efficiency as the Board deems necessary for the service to be performed. It shall be a condition of every licence that the licensed vehicle shall be maintained in a fit and servicable condition, and the Board may at any time suspend or cancel a licence if the licensee fails or omits on 25 demand to satisfy the Board that the vehicle is being maintained in that condition.

15. The Board may with the approval of the Governor in Council make orders and regulations for—

(a) prescribing standards of design and operating effi- 30 ciency of vehicles to be licensed under this Part;

(b) determining what evidence shall be required to establish that the vehicles conform to the required standards of design and operating efficiency and that a licensed vehicle is being maintained in a fit and 35 serviceable condition;

(c) limiting or regulating the hours of duty of any employees or class of employees with a view to the safety of the public and of the employees;

(d) specifying the form of licence plates or other identify- 40 ing marks indicating a licence under this Part and requiring that they shall be prominently displayed on the vehicle;

(e) prescribing the procedure and basis upon which renewals of any licence under this Part may be granted; 45

(f) determining the qualifications of the drivers of any licensed vehicles;

(g) generally providing for anything which the Board deems necessary for the proper administration of this Part.

Prohibition
of transport.

16. No goods or passengers shall be transported in interprovincial or foreign trade or upon a Dominion highway by means of a public or private commercial vehicle other than a vehicle licensed under this Part.

Fines and
forfeiture
for
infractions.

(2) If any goods or passengers are transported contrary to the provisions of this Part or otherwise than in accordance with the terms of the licence of the vehicle, the person transporting such goods or passengers shall be liable upon summary conviction to a fine not exceeding five hundred dollars and not less than two hundred dollars, and every motor vehicle by means of which goods or passengers are transported contrary to the provisions of this Part shall be subject to forfeiture as hereinafter provided.

Suspension or
cancellation
of licences.
R.S. 1927, c.
170.

(3) If any licensee is convicted of an offence under this Act or under the *Railway Act*, or if the Board is satisfied that a public commercial vehicle is operated otherwise than in accordance with the terms of a licence applicable thereto, the Board may suspend or cancel the licence of such licensee in respect of one or all of the motor vehicles licensed.

When this
Part comes
into force.

17. This Part shall not come into force on, or in respect of, any highway until proclaimed by the Governor in Council to be in force on, or in respect of, such highway.

Exemption.

(2) The Governor in Council may by regulation exempt any vehicle or class of vehicles from the operation of this Part.

Board may
act as
agent of a
province.

18. In any case where a provincial legislature has enacted legislation for the regulation of the transport of goods or passengers by public or private commercial vehicles, the Board may if so authorized by provincial law undertake the administration or enforcement of such scheme of regulation if the Board considers that such scheme can be co-ordinated with the regulation of interprovincial and foreign trade and transport upon any Dominion highway provided for in this Part.

PART V.

HARBOUR TOLLS.

Power to
make
inquiries
into harbour
tolls.

19. The Board shall when requested by the Minister make inquiry in respect of any harbour toll as to whether such harbour toll is just and reasonable under all the circumstances, and without restricting the generality of the foregoing the Board shall in the conduct of such inquiry have regard to—

(a) the service, privilege, advantage or benefit enjoyed or provided in respect of which the harbour toll is charged;

(b) the cost of providing, operating and maintaining the facilities and services of the harbour including, without restricting the generality of the foregoing, interest on capital investment and depreciation;

(c) comparable tolls and charges payable at any harbour in Canada or elsewhere than in Canada; 5

(d) whether such harbour toll is under substantially similar circumstances and conditions charged equally to all persons;

(e) the effect of such harbour toll upon the movement of ships, goods or passengers, as the case may be, through the harbour and upon the movement of trade generally. 10

Report to
Minister.

(2) The Board shall with its report transmit to the Minister a copy of the evidence taken by the Board in the course of its inquiry. 15

Recommendation to
Minister.

20. If the Board, after inquiry as hereinbefore provided is of opinion that any harbour tolls should be amended or rescinded or other harbour tolls substituted therefor, it shall be the duty of the Board to forward with its report a recommendation to the Minister for such action as he deems fit. 20

When this
Part comes
into force.

21. This Part shall not come into force until proclaimed as in force by the Governor in Council.

PART VI.

AGREED CHARGES.

Agreed
charges
approved
by Board.
R.S. 1927, c.
170.

22. Notwithstanding anything in the *Railway Act*, or in this Act or in any other statute, a carrier may make such charge or charges for the transport of the goods of any trader or for the transport of any part of his goods as may be agreed between the carrier and that trader: Provided that any such agreed charge shall require the approval of the Board, and the Board shall not approve such charge if, in its opinion, the object to be secured by the making of the agreement can, having regard to all the circumstances, adequately be secured by means of a special tariff of tolls under the *Railway Act*. 30

Particulars
to be
lodged.

(2) Particulars of an agreed charge shall be lodged with the Board within seven days after the date of the agreement, and notice of an application to the Board for its approval of the agreed charge shall be given in such manner as the Board may direct. 35

Powers of
Board.

(3) The Board may approve an agreed charge either for such period as it thinks fit or without restriction of time, and the date on which the charge shall become operative, or as from which it shall be deemed to have become operative, shall be such date, not being earlier than the date 40

on which application for approval was lodged, as may be fixed by the Board.

Intervention
by traders.

(4) On an application to the Board for the approval of an agreed charge:—

(i) any trader whose business will be unjustly discriminated against if the agreed charge is approved and is made by the carrier, or that whose business has been unjustly discriminated against as a result of the making of the charge by virtue of a previous approval; and

(ii) subject to the provisions of the next succeeding section, any representative body of traders,

(iii) any carrier of the same class,

shall, after giving such notice of objection as may be prescribed by the Board, be entitled to be heard in opposition to the application.

Discrimination
against
traders.

(5) Any trader who considers that his business will be unjustly discriminated against if an agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as a result of the making of an agreed charge, may at any time apply to the Board for a charge to be fixed for the transport of his goods (being the same goods as or similar goods to any goods to which the agreed charge relates) by the carrier with which he contracts for the transport of such goods, whether the same carrier by which the agreed charge is proposed to be made or is being made, or another carrier of the same class; and, if the Board is satisfied that the business of the trader will be or has been so unjustly discriminated against, it may fix a charge (including the conditions to be attached thereto) to be made by the carrier (being engaged in the same class of transport, being transport by rail, highway, water or air, as the case may be), with which he contracts for the transport of such goods as the Board may determine.

Period of
charge.

(6) The Board, in fixing a charge, may fix it either for such period as it thinks fit or without restriction of time, and may appoint the date on which it is to come into operation, but no such charge shall be fixed for a period in excess of that for which the agreed charge complained of by the trader has been approved.

Procedure.

(7) An application under this section may, if it be convenient, be combined with an objection by the trader to the application for the approval of the agreed charge of which he complains.

Withdrawal
of approval
by Board.

(8) Where the Board has approved an agreed charge without restriction of time:—

(i) any trader whose business has been unjustly discriminated against as a result of the making of the agreed charge, and

(ii) subject to the provisions of the next succeeding section, any representative body of traders,

(iii) any carrier of the same class:

may at any time after the expiration of one year from the date of the approval apply to the Board for its approval of the agreed charge to be withdrawn and, upon any such application, the Board may withdraw, or refuse to withdraw, its approval, or may continue its approval subject to such modifications being made in the charge as it thinks proper and as the carrier and the trader to whose goods the charge is applicable are prepared to agree to; 5

Proviso. Provided that, where under the last preceding subsection the Board has fixed a charge in favour of a trader complaining of an agreed charge the trader shall not be entitled to make an application under this subsection in respect of that agreed charge in so far as it relates to goods which are the same as or similar to any goods to which the charge so fixed relates. 10 15

Cessation of charge. (9) Where under this section the Board withdraws its approval of an agreed charge or continues its approval of an agreed charge subject to modifications, any charges fixed under the last preceding subsection in favour of a trader complaining of that agreed charge shall cease to operate, or shall be subject to such corresponding modifications as the Board may determine. 20

Deemed approval. (10) For the purposes of applications under this section a decision of the Board continuing its approval of a charge subject to agreed modifications shall be deemed to be the approval of an agreed charge. 25

Duty of Board. (11) On any application under this section, the Board shall have regard to all considerations which appear to it to be relevant and, in particular, to the effect which the making of the agreed charge or the fixing of a charge is likely to have, or has had, on— 30

(a) the net revenue of the carrier; and

(b) the business of any trader by whom, or in whose interests, objection is made to approval being given to an agreed charge, or application is made for approval to be withdrawn. 35

Definition of "representative body of traders". **23.** For the purposes of the provisions of the last preceding section which relate to applications and objections to applications, the expression "a representative body of traders" means an association or body of persons which satisfies the Board that it represents a substantial number of traders interested in or likely to be affected by the decision on the application. 40

PART VII.

BROKERS.

Brokerage of transport. **24.** No broker shall sell or offer for sale transport, or make any contract, agreement or arrangement to provide, 45

procure, furnish or arrange for such transport or hold himself out by solicitation, advertisement or otherwise as one who sells, provides, procures, furnishes or arranges for such transport, in respect of which transport tolls are charged or are to be charged otherwise than in accordance with the provisions of this Act and of a tariff of tolls which has been prepared, filed or approved in accordance with the provisions of this Act, and any broker contravening or failing to comply with the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and not less than one hundred dollars. 5 10

Fine.

Regulations for licensing brokers.

To whom licences may issue.

25. The Governor in Council may provide by regulation for the licensing by the Board of brokers carrying on business in any means of transport. 15

(2) Licences shall be issued only to qualified persons and shall prescribe the means of transport whether by rail or by air or by highway or by water in which the broker shall be entitled to carry on business.

Fine for unlicensed brokerage.

26. Any broker carrying on business without a licence in any means of transport in respect of which brokers are required by regulations under this Part to be licensed, shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and not less than one hundred dollars. 20 25

When this Part comes into force.

27. This Part shall not come into force in respect of transport by rail or by air or by highway or by water until proclaimed as in force by the Governor in Council.

PART VIII.

GENERAL.

R.S. 1927, c. 170.
Sittings and business of Board.

28. The provisions of the *Railway Act* relating to sittings of the Board and the disposal of business, the summoning of witnesses and the taking of evidence and to practice and procedure shall be applicable in the case of every inquiry, complaint, application or other proceedings under this Act, and the Board shall exercise and enjoy the same jurisdiction and authority in the case of such proceedings as are vested in the Board by the *Railway Act*. 30 35

Duty of Board re licences.

29. It shall be the duty of the Board in determining in connection with any application for a licence, whether public convenience and necessity exists, to take into consideration— 40

- (a) any objection to the application which may be made by any person or persons who are already providing transport facilities, whether by rail, by water, by air or by highway, on the routes or between the places in which the applicant intends to serve on the ground that suitable facilities are or, if the licence were issued, would be, in excess of requirements or on the ground that any of the conditions of any other transport licence held by the applicant have not been complied with; 5
- (b) whether or not the issue of such licence would tend to develop the complementary rather than the competitive functions of the different forms of transport, if any, involved in such objections; 10
- (c) the general effect on the transport services in, and the costs to, the community involved in the issue of such licence; 15
- (d) the quality and permanence of the service to be offered by the applicant for the licence and his financial responsibility, including adequate provision for the protection of passengers, shippers and the general public by means of insurance. 20

Term of
licences.

30. Every licence issued under this Act shall, subject to the provisions of this Act, be for one year or for such other period as the Board with the approval of the Governor in Council may determine, and a fee shall be payable therefor according to a tariff of fees to be fixed by the Board with the approval of the Governor in Council. 25

Destination
of licence
fees.

(2) The licence fee shall be paid to the Receiver General of Canada for the use of His Majesty. 30

Destination
of fines.

31. Every fine imposed under this Act or under any regulation shall be paid over to the Receiver General of Canada for the use of His Majesty.

Power to
seize and
detain.

32. Any officer of the Board or other person duly authorized by the Board may seize and detain property subject to forfeiture under this Act and notice of seizure shall be given according to rules to be established by the Board. 35

Property
seized as
forfeited.

(2) All property seized as forfeited shall be deemed and taken to be condemned and may be dealt with accordingly unless notice of claim is given according to the rules established by the Board within thirty days of the notice of seizure. 40

Power of
Board over
property
seized.

(3) Upon any claim being made within the time prescribed the Board may direct that the property be returned to the claimant, or request the Attorney General of Canada to institute proceedings in the Exchequer Court to have the property condemned as forfeited. 45

Liability of
officers,
directors and
servants of
corporation.

33. If any corporation is guilty of a breach of any provision of this Act for which a fine is provided to be imposed on such corporation, every officer, director or servant of such corporation who has been party or privy to such breach also shall be liable on summary conviction to a fine not exceeding one thousand dollars. 5

Limitation
of
proceedings.

34. No proceeding for any penalty for any breach of the provisions of this Act or of any regulation made or licence granted thereunder shall be commenced except within twelve months from the date of the breach complained of. 10